

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Collins v. Smith

Collins · No. 2:24-cv-01229 SCR P · Decided August 22, 2025

SUMMARY

The court recommends dismissing the plaintiff’s 42 U.S.C. § 1983 action without prejudice for failure to prosecute and failure to comply with a court order. The recommendation follows the plaintiff’s failure to file an amended complaint after the court found that his original complaint stated no cognizable claims.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 22, 2025
DOCKET	2:24-cv-01229 SCR P
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a prisoner civil-rights action for failure to prosecute and failure to comply with a court order.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with a court order is evaluated under the five-factor framework addressing the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	Nonprecedential magistrate judge findings and recommendations; not a final district court order.
PARTIES	Bobby Lee Collins v. D. Smith, et al.

TOPICS

- civil procedure
- motions to dismiss
- sanctions
- section 1983
- prisoners rights

PRACTICE AREAS

Civil rights

Prisoner litigation

Federal civil procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110 because plaintiff failed to prosecute the action and failed to comply with the screening order.
2. Whether the five-factor dismissal framework and available less drastic alternatives supported dismissal.

HOLDINGS

1. Dismissal without prejudice was appropriate because plaintiff failed to file an amended complaint or otherwise respond after being ordered to do so and warned that noncompliance could result in dismissal.

KEY QUOTATIONS

“In recommending dismissal, the court has considered: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.”” (at 1)

“In addition, IT IS RECOMMENDED that the action be dismissed without prejudice for failure to prosecute, Fed. R. Civ. P. 41(b), and failure to comply with a court order, Local Rule 110.” (at 2)

FACTUAL BACKGROUND

Plaintiff was incarcerated in state prison and brought a pro se, in forma pauperis civil-rights action under 42 U.S.C. § 1983. The court screened his complaint and determined that it failed to state any cognizable claim, then allowed thirty days to file an amended complaint and warned that failure to do so could lead to dismissal. Plaintiff allowed the amendment period to expire without filing an amended complaint or otherwise responding.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights action under 42 U.S.C. § 1983 and proceeded pro se and in forma pauperis. After screening the complaint, the court found no cognizable claims and granted plaintiff thirty days to amend, warning that failure to do so could result in dismissal under Federal Rule of Civil Procedure 41(b). Plaintiff did not amend or otherwise respond, so the magistrate judge recommended dismissal without prejudice and ordered random assignment to a district judge. The recommendation was submitted for review under 28 U.S.C. § 636(b)(1), subject to objections.

DISPOSITION

other

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999)
- *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002)
- *Leon v. IDX Systems Corp.*, 464 F.3d 951, 961 (9th Cir. 2006)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 FOR THE EASTERN DISTRICT OF
CALIFORNIA 9 10 BOBBY LEE COLLINS, No. 2:24-cv-01229 SCR P 11 Plaintiff, 12 v.
ORDER and 13 D. SMITH, et al., FINDINGS AND RECOMMENDATIONS 14 Defendants. 15
16 Plaintiff is incarcerated in state prison and proceeding pro se and in forma pauperis with a 17
civil rights action under 42 U.S.C. § 1983.

On June 11, 2025, the undersigned screened 18 plaintiff's complaint and found it failed to state
any cognizable claims for relief. (ECF No. 10.) 19 Plaintiff was granted thirty (30) days to file an
amended complaint. (Id. at 4.) Plaintiff was 20 further advised that failure to file an amended
complaint would result in the recommendation that 21 the action be dismissed pursuant to Rule
41(b) of the Federal Rules of Civil Procedure.

(Id.) 22 The time for plaintiff to amend his complaint has now passed, and plaintiff has not filed 23
an amended complaint or otherwise responded to the screening order. Accordingly, the 24
undersigned recommends that the action be dismissed for failure to prosecute and failure to 25
comply with a court order. See Fed. R. Civ. P. 41(b); Local Rule 110. 26 In recommending
dismissal, the court has considered: "(1) the public's interest in 27 expeditious resolution of
litigation; (2) the court's need to manage its docket; (3) the risk of 28 prejudice to the defendants;
(4) the public policy favoring disposition of cases on their merits; and 1 || (5) the availability of
less drastic alternatives." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th 2 | Cir.

1992) (citation omitted). 3 "The public's interest in expeditious resolution of litigation always
favors dismissal." 4 | *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). The court's
need to manage its 5 || docket also weighs in favor of dismissal, particularly given the heavy
caseload in this District. 6 || The third factor is neutral given no defendants have appeared, but
"[u]nnecessary delay inherently 7 || increases the risk that witnesses' memories will fade and
evidence will become stale." 8 | *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir.

2002). The public policy favoring disposition 9 || of actions on the merits weighs against dismissal,
but when "standing alone... is not sufficient to 10 | outweigh the other four factors." *Leon v. IDX
Sys. Corp.*, 464 F.3d 951, 961 (9th Cir. 2006). 11 | The undersigned has also considered less drastic
alternatives and concludes that dismissal without 12 || prejudice is appropriate.

13 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly 14 | assign a district judge to this matter. 15 In addition, IT IS RECOMMENDED that the action be dismissed without prejudice for 16 | failure to prosecute, Fed. R. Civ. P. 41(b), and failure to comply with a court order, Local Rule 17 |} 110. 18 These findings and recommendations are submitted to the United States District Judge 19 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within twenty-one days 20 | after being served with these findings and recommendations, plaintiff may file written objections 21 | with the court. Such a document should be captioned “Objections to Magistrate Judges Findings 22 || and Recommendations.” Plaintiff is advised that failure to file objections within the specified 23 || time may waive the right to appeal the District Court’s order.

Martinez v. Ylst, 951 F.2d 1153 24 | (9th Cir. 1991). 25 || DATED: August 21, 2025 26) 27 SEAN C. RIORDAN 3g UNITED STATES MAGISTRATE JUDGE